

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

| | | |
|-----------------------|---|---------------------------|
| TERRY A. WEBB, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case No. 4:21 CV 1085 CDP |
| |) | |
| GKN AEROSPACE NORTH |) | |
| AMERICA/MELROSE, LLC, |) | |
| |) | |
| Defendant. |) | |

MEMORANDUM AND ORDER

On April 12, 2022, I ordered plaintiff Terry A. Webb to file a second amended complaint within 21 days and to attach thereto a copy of his EEOC Charge(s) of Discrimination and EEOC Notice(s) of Right to Sue. (ECF 35, Memo. & Order.) Claiming that he has been unable to obtain copies of his relevant documents from the EEOC despite his repeated requests, Webb now asks that I permit him to subpoena the EEOC to produce the documents he filed with it. He also asks for additional time to file his second amended complaint. I will grant both requests.

Rule 45, Federal Rules of Civil Procedure, permits the issuance of a subpoena commanding a person to produce designated documents in that person's possession. From the information before the Court, it appears that Webb has made reasonable attempts to obtain his Charge(s) of Discrimination and other relevant

documents from the EEOC but without success. Given that this litigation's viability and/or scope may turn on the information contained in those documents, I will grant Webb's request for issuance of subpoenas to the EEOC for the designated documents. **The parties are advised that the issuance of Rule 45 subpoenas for the limited purpose of Webb being able to obtain his own documents from the EEOC does not open discovery in this case.** As stated above, the purpose of obtaining Webb's documents from the EEOC is to determine the viability and/or scope of Webb's claims in this litigation.

I will therefore grant Webb's request for issuance of subpoenas to the EEOC and direct that subpoenas for the production of designated documents be issued under Rule 45. Because information before the Court appears to show that Webb submitted documents to two EEOC offices, I will direct the Clerk of Court to issue two subpoenas to plaintiff Webb, signed but otherwise in blank, pursuant to Rule 45(a)(3). Webb shall comply in all respects with Rule 45 in completing and serving the subpoenas as well as providing notice to the opposing party. *See Ackra Direct Mktg. Corp. v. Fingerhut Corp.*, 86 F.3d 852, 856-57 (8th Cir. 1996) (party's pro se status does not excuse him from following the Federal Rules of Civil Procedure).

I will also grant Webb's request for additional time to file a second amended complaint. I will give Webb 21 days from today's date to file a second amended

complaint that complies **in all respects** with the instructions set out in my April 12 Memorandum and Order **except** that Webb need not attach his EEOC Charge(s) of Discrimination to the complaint if he does not have possession of it/them. **This is the only exception to full compliance with the instructions given in the April 12 Memorandum and Order regarding the filing of a second amended complaint.** In addition, as directed in the April 12 Memorandum and Order, Webb shall complete the Court-provided complaint form **in its entirety**, including fully answering Question 7 that asks for the date an EEOC Charge of Discrimination was filed. If Webb does not have possession of his EEOC Charge(s) of Discrimination upon the filing of his second amended complaint, he shall supplement the complaint with a copy of the Charge(s) when he obtains it/them.


Accordingly,

IT IS HEREBY ORDERED that plaintiff Terry A. Webb's motion for subpoenas and for extension of time to file a second amended complaint [37] is **GRANTED** all respects.

IT IS FURTHER ORDERED that pursuant to Rule 45(a)(3), Federal Rules of Civil Procedure, the Clerk of Court shall issue two subpoenas, signed but otherwise in blank, to plaintiff Terry A. Webb. Plaintiff shall comply in all respects with Rule 45 in completing and serving the subpoenas as well as providing appropriate notice to the opposing party.

IT IS FURTHER ORDERED that within 21 days of the date of this Memorandum and Order, plaintiff Terry A. Webb shall file a second complaint that complies in all respects with the instructions set out in the April 12, 2022, Memorandum and Order – with the only exception being that plaintiff need not attach a copy of his EEOC Charge(s) of Discrimination if he is not in possession of it/them. Plaintiff shall complete the Court-provided complaint form in its entirety, including fully answering Question 7 that asks for the date an EEOC Charge of Discrimination was filed.

IT IS FURTHER ORDERED that if plaintiff does not have possession of his EEOC Charge(s) of Discrimination upon the filing of his second amended complaint, he shall supplement the complaint with a copy of the Charge(s) when he obtains it/them.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 5th day of May, 2022.